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Supreme Court of the United States.

October Term, 1974.

No. 74-5573.

JAMES F. RONAN,
Petitioner,

v.

CLEMENT A. BRIGGS et al.,
Respondents.

Brief of Respondents in Opposition to Petition for Writ of Certiorari.

Statement of the Facts.

The respondent Clement A. Briggs is a licensed practicing attorney in the Commonwealth of Massachusetts and has maintained a law office in the town of Duxbury, Plymouth County, Commonwealth of Massachusetts, for approximately 30 years and has been a legal resident in said town for 28 of the 30 years.

The respondent Priscilla D. Briggs is and for many years has been a legal resident of the town of Duxbury, County of Plymouth, Commonwealth of Massachusetts. She is the lawful wife of the respondent Clement A. Briggs.

The respondents were legally married to each other on June 25, 1962, in the town of Plymouth, County of

Plymouth, Commonwealth of Massachusetts; a copy of the marriage certificate is hereto attached and made a part hereto by reference, and marked "Schedule A."

The petitioner James F. Ronan is a legal resident of the Commonwealth of Massachusetts, residing in the town of Duxbury in Plymouth County. He is the former husband of Priscilla D. (Ronan) Briggs.

The petitioner, James F. Ronan, and the respondent Priscilla D. (Ronan) Briggs, were divorced in Plymouth County Probate Court on a libel of the respondent herein Priscilla D. (Ronan) Briggs, on or about December 5, 1960, which decree nisi became final on or about June 5, 1961; a copy of the decree nisi is hereto attached and made a part hereof by reference, and marked "Schedule B."

A petition for the adoption of the minor child, Susan Dick Ronan, now Susan Briggs Fox, was filed by the respondents Clement A. Briggs and Priscilla D. Briggs, on September 3, 1964. The petitioner in this action, James F. Ronan, neglected to provide proper care and maintenance for said Susan Dick Ronan for more than one year last preceding the date of the filing of the petition.

On or about November 10, 1964, the respondents herein, Clement A. Briggs and Priscilla D. Briggs, legally adopted, by judicial decree as provided by law, Susan Dick Ronan, now Susan Briggs Fox, in the Plymouth County Probate Court, case No. 89404; a copy of the decree is hereto attached and made a part hereof by reference, and marked "Schedule C."

A petition for the adoption of the minor child, Richard James Ronan, was filed by the respondents Clement A. Briggs and Priscilla D. Briggs, on September 3, 1964. The petitioner in this action, James F. Ronan, neglected to provide proper care and maintenance for said Richard James Ronan for more than one year last preceding the date of the filing of the petition.

On or about December 1, 1964, the respondents herein, Clement A. Briggs and Priscilla D. Briggs, legally adopted, by judicial decree as provided by law, Richard James Ronan, now Richard James Briggs, in the Plymouth County Probate Court, case No. 89405; a copy of the decree is hereto attached and made a part hereof by reference, and marked "Schedule D."

A petition for the adoption of the minor child Paul Philip Ronan was filed by the respondents Clement A. Briggs and Priscilla D. Briggs, on September 3, 1964. The petitioner in this action, James F. Ronan, neglected to provide proper care and maintenance for said Paul Philip Ronan for more than one year last preceding the date of the filing of the petition.

On or about December 1, 1964, the respondents herein, Clement A. Briggs and Priscilla D. Briggs, legally adopted, by judicial decree as provided by law, Paul Philip Ronan, now Paul Philip Briggs, in the Plymouth Probate Court, case No. 89406; a copy of the decree is hereto attached and made a part hereof by reference, and marked "Schedule E."

A petition for the adoption of the minor child Charles Anton Ronan was filed by the respondents Clement A. Briggs and Priscilla D. Briggs, on September 3, 1964. The petitioner in this action, James F. Ronan, neglected to provide proper care and maintenance for said Charles Anton Ronan for more than one year last preceding the date of the filing of the petition.

On or about December 1, 1964, the respondents herein, Clement A. Briggs and Priscilla D. Briggs, legally adopted, by judicial decree as provided by law, Charles Anton Ronan, now Charles Anton Briggs, in the Plymouth County Probate Court, case No. 89407; a copy of the decree is hereto attached and made a part hereof by reference, and marked "Schedule F."

On or about June 5, 1962, the petitioner herein, James F. Ronan, was restrained from imposing any restraint on the personal liberty of the respondent herein Priscilla D. Briggs and visitation rights to the minor children were revoked; a copy of said decree is hereto attached and made a part hereof by reference, and marked "Schedule G."

On or about March 22, 1965, the petitioner herein, James F. Ronan, was on the petition of Priscilla D. Briggs adjudged guilty of contempt of court by James R. Lawton, judge of the Probate Court in Plymouth County, for failing to pay $7,828 under a former decree of said court (a copy of said decree is hereto attached and made a part hereof by reference, and marked "Schedule H"), when being of sufficient ability to pay said monies. The petitioner herein, James F. Ronan, was committed to the House of Correction at Plymouth in said County of Plymouth for the term of one year or until the further order of the Plymouth Probate Court, in case No. 11716; a copy of said decree is hereto attached and made a part hereof by reference, and marked "Schedule I."

On or about October 11, 1965, on the further order of the Plymouth Probate judge, James R. Lawton, the petitioner herein, James F. Ronan, was released from the House of Correction at Plymouth on the condition that he pay the sum of $1,000 at the rate of $10 per week to the respondent herein Priscilla D. Briggs in complete settlement of the amount adjudicated as having been due on March 22, 1965. Said petitioner herein, James F. Ronan, paid $430 as ordered and then stopped all further payments as of October 10, 1966, and is presently $570 in arrears on the modified order of Judge James R. Lawton.

The petitioner herein, James F. Ronan, purported to file a claim of appeal on or about November 30, 1964, for Susan and on December 9, 1964, for the three other minor children, from the decrees in the adoption cases hereinbe-

fore mentioned; copies of said claims of appeal are hereto attached and made a part hereof by reference, and marked "Schedule J," "Schedule K," "Schedule L" and "Schedule M."

On or about June 10, 1965, Walter H. Gilday, then Register of Probate for the Plymouth County Probate Court, sent a letter to James F. Ronan, giving the register's estimate of cost in the printing of the record in the actions entitled Nos. 89404, 89405, 89406 and 89407. The letter is attached hereto and marked "Schedule R."

In the case of Clement A. Briggs et al., petitioners, for the adoption of four minors, the letter addressed to James F. Ronan, dated June 10, 1965, reads as follows:

"Dear Sir:

"I have this day received from A. C. Getchell & Son, Inc. of Boston the official estimate of the cost of printing the papers with respect to the four cases mentioned above. The amount it will cost you to print these papers for the Supreme Judicial Court is $202.00. A copy of Mr. Getchell's letter is attached, and you will notice how the cost may be reduced to $192.00 if certain papers are omitted.

"Once again, Mr. Ronan, I advise you to obtain the services of a member of the Bar to handle this matter for you. Attorney Edward Stevens of Brockton has actually filed a withdrawal of appearance in the cases which, of course, you must know. You cannot be expected under any circumstances to carry this Appeal forward yourself as the legal technicalities are complicated enough even for members of the Bar. This is so in every case of Appeal.

"I am giving you this information, but you will understand once again that my duties extend no fur-

ther than seeing that you get the notice of the above-mentioned firm. Very truly yours, /s/ Walter H. Gilday, Register."

The petitioner herein, James F. Ronan, failed to perfect his appeal to the Full Court. He failed to pay the amount of the estimate of costs, namely, $202, within 20 days after the date of notice, namely, June 10, 1965. There never was an order extending the time entered by any court before the expiration of said 20-day period.

The petitioner herein, James F. Ronan, has legally failed to comply with G.L. c. 231, § 135. Therefore, on July 1, 1965, the statutory time for appeal expired without the petitioner herein, James F. Ronan, perfecting his right of appeal.

On or about January 10, 1966, the appeals which were not perfected by the petitioner, herein, James F. Ronan, were dismissed by order of James R. Lawton, judge of the Plymouth County Probate Court; said decrees are hereto attached and made a part hereof by reference, and marked "Schedule N," "Schedule O," "Schedule P," and "Schedule Q."

Your respondents herein believe that the petitioner, James F. Ronan, purported to file a bill of exceptions on or about December 28, 1973, in case No. 64891 involving the four adoption cases hereinbefore referred to. A hearing was held by the Honorable Robert Braucher sitting in the single justice session of the Massachusetts Supreme Judicial Court. The issue at said hearing was whether the request of the petitioner, James F. Ronan, to have the case remain on the docket should be granted. This request was filed November 21, 1973, long after the standing order of the Supreme Judicial Court for the Commonwealth of Massachusetts entered February 8, 1972, that all petitions and suits which had remained for more than six months

on the docket of the County Court, without final decision, might be dismissed by order of the Court.

At a hearing on or about December 12, 1973, Justice Robert Braucher denied the motion of the petitioner, James F. Ronan. Thereafter said Ronan claimed an exception to Judge Braucher's order denying the Ronan motion.

At the present time, the former minor child in adoption case No. 89404, Susan Dick Briggs, formerly Susan Dick Ronan, now Susan Briggs Fox, is a married woman, is now approximately 25 years of age and is living in the state of Florida.

The former minor child Richard James Briggs, the subject in adoption case No. 89405, is approximately 22 years of age.

The former minor child Paul Philip Briggs, the subject in adoption case No. 89406, is now approximately 18 years of age.

The minor child Charles Anton Briggs, the subject in in adoption case No. 89407, has been living with his natural mother, the respondent Priscilla D. Briggs, since birth, and his legally adopted father Clement A. Briggs, Esq., since the respondents, Clement A. Briggs and Priscilla D. Briggs, were married on June 25, 1962, or for a period of approximately 12 years.

The issue was presented for ruling by the Full Bench of the Supreme Judicial Court of Massachusetts, as to whether or not Justice Braucher acted properly in refusing to order restoration of the case to the active list, and on June 24, 1974, a rescript opinion was entered as follows: "Exceptions overruled," hereto attached, made a part hereof by reference, and marked "Schedule S."

A request for rehearing was denied by Chief Justice Tauro of the Supreme Judicial Court of Massachusetts on July 23, 1974.

Argument and Brief on Law.

Chapter 210, Section 3, of the Massachusetts General Laws reads in pertinent part as follows:

> "The consent of the persons named in section two, other than the child or her husband, if any, shall not be required if the person to be adopted is of full age, nor shall the consent of any such person other than the child be required if such person is adjudged by the court hearing the petition to be hopelessly insane, or is imprisoned in any penal institution under sentence for a term of which more than three years remain unexpired at the date of the petition; or if he has wilfully deserted or neglected to provide proper care and maintenance for such child for one year last preceding the date of the petition, and the foregoing provision shall be applicable to the parent or parents of the child and their consent shall not be required notwithstanding the absence of a court decree ordering said parent or parents to pay for the support of said child, and notwithstanding a court decree awarding custody of said child to another. . . ."

The adoptions of the minor children were granted under the foregoing statute which is perfectly clear.

Adoption of a Minor, 357 Mass. 490 (1970). This case is an appeal by the father of a minor child from a decree of the Middlesex Probate Court allowing adoption by the mother and stepfather, who were citizens of Massachusetts, without the consent of the father, following a hearing on the petition. The minor child was born in North Carolina, where her mother and father lived together for three years, more or less, following her birth. The mother filed for divorce in North Carolina and was granted a divorce in that state with the divorce decree being silent on the subject

of alimony, support of the child and rights of custody or visitation. The natural mother of the child and the adopting stepfather were married in North Carolina and immediately came to Massachusetts. Four years later a petition for adoption was filed by the natural mother and stepfather, and the decree was awarded in the Middlesex Probate Court.

> "Under G.L. c. 210, § 2, written consent of the 'lawful parents' in an adoption proceeding is required. *Hathaway* v. *Rickard*, 323 Mass. 501, 502. Such written consent is dispensed with, however, if the parent has 'wilfully deserted or neglected to provide proper care and maintenance for such child for one year last preceding the date of the petition . . . notwithstanding the absence of a court decree ordering said parent . . . to pay for the support of said child. . . .' G.L. c. 210, § 3. Compare *Hathaway* v. *Rickard*, 323 Mass. 501. The legislative history of G.L. c. 210, § 3, discloses a clear intent by the Legislature to relax the requirement of parental consent to adoption when the withholding of consent by a neglectful parent would not be in the best interests of the child. See *Adoption of a Minor*, 343 Mass. 292, 298.
>
> "It is clear from the evidence that the father had evinced no interest in the child in the period from December 19, 1965, to the date of the filing of the petition on January 28, 1969. We cannot say that with jurisdiction properly in the Probate Court and with the facts disclosed by the transcript the judge has erred in making his decree, which we also find to be in the best interest of the child." 357 Mass. at 491-492.

Petition for Revocation of a Decree for Adoption of a Minor, 345 Mass. 663 (1963). In a proceeding in the Pro-

bate Court by the mother of a child five years old for revocation of a decree entered shortly after the child's birth, allowing a petition for adoption by her maternal grandparents, purportedly signed by the child's mother and her husband in consent to the adoption, a decree vacating the decree for adoption and granting custody of the child to the mother was reversed and the petition for revocation was ordered dismissed in the circumstances where findings by the trial judge that the mother was misled as to the nature of the adoption proceeding were shown by the evidence to be plainly wrong.

> "We also observe that, although, at the time of the hearing, the minor was almost six years of age, there is nothing in the record to indicate that the petitioner or her husband contributed anything to the support of the child. We do not underestimate the love which the mother undoubtedly has for the child. However, it was not the kind of affection which manifested itself directly after the birth of the child nor, indeed, for some time thereafter.
>
> . . . . . .
>
> "Accordingly, the decree is reversed and a new decree is to be entered, dismissing the petition." 345 Mass. at 671, 672.

Adoption of a Minor, 343 Mass. 292 (1961), "Facts found by a judge of probate respecting a girl, less than ten years old, who shortly after her birth out of wedlock had been placed by her mother in the home of the mother's married sister and had lived there since, forming strong bonds of affection with the sister and the sister's husband and children and regarding herself "as an integral part of" the family, justified a conclusion by the judge that the

best interests of the girl required allowance of a petition by the sister and her husband to adopt the girl and denial of a like petition by the mother, then married, and her husband, although it was also found that the mother and her husband, as well as the sister and her husband, would be "worthy adoptive parents" and could furnish the girl approximately the same material advantages as the sister and her husband.

Where the mother of a girl born out of wedlock and placed by the mother in the home of the mother's married sister failed to furnish any support for the girl for several years before the sister and her husband filed a petition for adoption of the girl, although, after the filing of a like petition by the mother, then married, and her husband some twenty months before the filing of the petition of the sister and her husband, the mother and her husband were "ready, willing and able to support" the girl "if and when" she was "turned over to them," a ruling was justified that within G.L. c. 210, § 3, as amended by St. 1955, c. 89, the mother had "wilfully . . . neglected to provide proper care and maintenance for [the girl] for one year last preceding the date of the petition" of the sister and her husband, so that the consent of the mother thereto was not required under § 2. 434 Mass. at 296.

An agreement made between the mother of a girl born out of wedlock and the mother's married sister when the mother placed the girl in the sister's home shortly after the girl's birth, that the sister would return the girl to the mother if the mother "ever got married and was able to provide a home for" the girl, which later occurred, did not bar allowance of a petition by the sister and her husband to adopt the girl where such adoption was for the best interests of the girl. *Id.,* at 298.

"The mother and her husband contend that the § 3 exception, making the mother's consent unnecessary, is not applicable in the circumstances here. The gist of their argument is this. When they filed their petition, some twenty months before the sister's petition, they alleged that they were willing and able to support the minor; and the judge found that they 'were ready, willing and able to support . . . [her], if and when' she was turned over to them. It is contended that the appearance filed by the sister and her husband delayed the hearing on the mother's petition and in effect constituted a rejection by the sister and her husband of the mother's offer (in her petition) to assume all legal responsibilities for the child. Stated differently, this contention presents the question whether, after six and one-half years of failure to provide support, the filing of a petition for adoption by the natural mother is tantamount to the furnishing of care and support to the child so that in any subsequent adoption proceedings brought by another party the consent of the natural mother would be required. The legislative history of G.L. c. 210, § 3 (see St. 1945, cc. 239, 300; St. 1951, c. 674; St. 1952, c. 352; St. 1953, c. 61), discloses a clear intent on the part of the Legislature to relax the requirement of parental consent to adoption when the withholding of consent by a neglectful parent would frustrate the furtherance of the best interests of the child. See *Adoption of a Minor,* 338 Mass. 635, 640-641. We are of opinion that the mere filing of the petition, in the circumstances, was not the equivalent of 'proper care and maintenance,' and that the judge correctly ruled that the mother and her husband came within the exception contained in § 3 making consent unnecessary." 343 Mass. at 297-298.

Adoption of a Minor, 355 Mass. 782 (1968) (rescript):

"M and his wife seek (by petition dated November 10, 1966, and filed January 5, 1967) to adopt their infant granddaughter (born April 5, 1965), the child of their son (the father), aged twenty-one or twenty-two at the minor's birth, and of C (the mother), then fifteen years old, who had been married to the father a few months before the infant's birth. The father has given consent to the adoption. The mother now opposes it. Since August, 1965, the infant has been at the house of M and his wife. In November, 1965, the mother (with the father's consent) proposed adoption of the child by M and his wife. Neither the father nor the mother has ever contributed anything to the support of the child. The father has been in military service. He and the mother have become estranged. The mother has 'wandered from job to job returning occasionally to live with her mother and . . . stepfather in a trailer.' M and his wife own a substantial house with a separate room for the child. The evidence is not reported. The probate judge made a report of material facts on the basis of which the facts are stated. After consideration of the reports of the Division of Child Guardianship and of a guardian ad litem, he justifiably determined that the adoption was in the best interests of the child, and should be allowed despite the failure of the mother to give consent. Upon the report of material facts he could reasonably conclude that she had wilfully neglected to provide proper care and maintenance for the child for one year last preceding the date of the petition. See G.L. c. 210, § 3 (as amended through St. 1955, c. 89; see St. 1963, c. 71, § 1); *Adoption of a Minor,* 343 Mass. 292, 296-298. See also *Petition for Revocation of a Decree for Adoption of a Minor,* 345 Mass. 663, 671."

In re Adoption of a Minor, 275 N.E. 2d 28 (Mass. 1971), concerned proceedings on a petition for adoption of a minor. From a decree of the Probate Court, County of Essex, Jekanowski, J., an appeal was taken. The Supreme Judicial Court, Reardon, J., held that where the trial judge found on the record that the father, divorced from the mother who was given sole custody of child with visitation rights in the father, had shown complete lack of interest in the welfare of the child for a 25-month period since the divorce decree, the court did not err in granting, without the father's consent, the petition of the mother and her present husband on the ground that the grant of the petition was for the best interest of the child.

The standing order concerning matters not disposed of in the County Court for more than six months, signed by Chief Justice G. Joseph Tauro and Associate Justice R. Ammi Cutter, Jacob J. Spiegel, Paul C. Reardon, Francis J. Quirico, Robert Braucher, and Edward F. Hennessey, dated February 8, 1972, reads as follows:

> "The Commonwealth of Massachusetts, Supreme Judicial Court for the Commonwealth. STANDING ORDER CONCERNING MATTERS NOT DISPOSED OF IN THE COUNTY COURT FOR MORE THAN SIX MONTHS.
>
> "It is ORDERED that in May and November of each year there shall be a call, in the county court (single justice session), of all petitions and suits which have remained for more than six months upon the docket of the county court, without final disposition. The clerk of the Supreme Judicial Court for Suffolk County shall, without further order of the court, prepare lists for such calls, and shall give seasonable and appropriate notice by mail to all interested parties or their attorneys of record. The notice in each case shall state that

the matter is being called for dismissal or other appropriate order, and that failure of a party or his attorney to answer may result in dismissal of the matter.

"2. A copy of this order shall be filed with the clerk of the Supreme Judicial Court for Suffolk County.

/s/ G. Joseph Tauro
/s/ R. Ammi Cutter
/s/ Jacob J. Spiegel
/s/ Paul C. Reardon
/s/ Francis J. Quirico
/s/ Robert Braucher
/s/ Edward F. Hennessey"

This case wherein the appeal was never perfected as required by law under G.L. c. 231, § 135, amended by St. 1941, c. 187, presents a case which is more than nine years old from the time of the adoption decrees. The standing order of the court as hereinbefore referred to appears to be designed for the very purpose of clearing the docket of the Supreme Judicial Court for the Commonwealth of Massachusetts of cases that are without merit and have no legal standing at the bar of this court.

The statutory rights of appeal are specifically spelled out in G.L. c. 231, § 135, which reads as follows:

"[Contents of record; order for preparation; expense.]

"In all cases to be brought before the full court of the supreme judicial court, including cases from the supreme judicial court when held by a single justice, the superior court, the land court, the probate court, the appellate division of any district court, the clerk, recorder, register or other appropriate official of the court below, at the expense of the appellant or excepting party, or, upon a case reserved or reported, at the ex-

pense of the plaintiff or of the party at whose request it is reserved or reported, shall prepare and transmit to the supreme judicial court for the commonwealth, or for the proper county, one copy of every paper on file in the case necessary to a full presentation of all questions of law intended to be raised before the full court, except papers used in evidence only, and of all papers made part of the case by reference in the record, for the use of the chief justice, and a like copy for the clerk of the supreme judicial court which shall be kept on file in said court; five typewritten copies of any opinion or statement of reasons for decision filed by the court below, for the use of the full court; one copy of the record of the court below which transmits the questions of law, for the use of each associate justice, each party and the reporter of decisions. In appeals from the appellate division of the municipal court of the city of Boston under section one hundred and nine, the court may order the expense of the necessary papers to be borne by some party other than the appealing party, or may in its discretion provide the required typewritten copies of the opinion or statement aforesaid without charge. Original papers used in the trial in the court below which are needed before the full court of the supreme judicial court shall be transmitted to its clerk to be kept on file by him until the rescript in such case is sent. The expense of such copies and transmission shall be taxed in the bill of costs of the prevailing party, if he has paid it.

"In preparing the record, a brief descriptive title of any paper to be contained therein shall be included, but the title of the court, name of the county, names of parties and other formal parts need not appear more than once. No bond, citation, verification, appearance or

formal paper shall be deemed a necessary part of the record unless some question in regard thereto is in issue but the contents thereof may be indicated. Matter which appears in two or more papers or portions thereof forming part of the record need be set forth only once therein, and at each place where such matter is omitted there shall be printed a notation of the omission, with a cross-reference to the place in the record where such matter appears.

"The supreme judicial court may make and promulgate rules regulating the contents of the record and may in any case order the transmission of the original or a copy of any paper not appearing in the record, or appearing therein in an abbreviated form, if at any time such omitted paper or any omitted part of such abbreviated paper becomes material.

"In order to carry any question of law from the supreme judicial court when held by a single justice or from any other court to the full court of the supreme judicial court upon appeal, exception, reservation, report or otherwise as authorized by law, the party having the obligation to cause the necessary papers hereinbefore specified to be prepared shall give to the clerk, recorder, register or other appropriate official of the court in which the case is pending, within ten days after the case becomes ripe for final preparation and printing of the record for the full court, an order in writing for the preparation of such papers and copies of papers for transmission to the full court of the supreme judicial court. As soon as may be after receiving such written order, the clerk or other official shall make an estimate of the expense of the preparation and transmission of the necessary papers and copies of papers aforesaid and shall give such party notice in writing

of the amount of such estimate. Such party, within twenty days after the date of such notice from the clerk or other official, shall pay to him the amount of such estimate and such further amount beyond such estimate as the clerk or other official may find to be then due for such preparation. The clerk or other official then without delay shall prepare the papers and copies of papers aforesaid for transmission and when they are ready shall give notice in writing of such fact to the party ordering them, who, within five days after the date of such notice, shall pay to the clerk or other official any balance then due therefor and shall enter the case in the supreme judicial court for the commonwealth, or for the proper county. The court in which the case is pending, or any justice or judge thereof, may, for cause shown after hearing, extend the time for doing any of the acts required by this paragraph. The entry of the case shall not, except as otherwise provided by law, transfer the case, but only the question to be determined."

The petitioner, James F. Ronan, was specifically advised of his legal rights in the letter of June 10, 1965, signed by Walter H. Gilday, Register. The statutory reference was incorporated in the said letter of June 10, 1965. General Laws, c. 231, § 135, amended by St. 1941, c. 187, was expressly incorporated in the letter signed by Walter H. Gilday, Register of the Plymouth County on June 10, 1965.

The petitioner herein, James F. Ronan, was expressly notified that if he decided to perfect his appeal to the Full Court, he would be required to pay the amount of the estimate of $202 for the printing costs within twenty days after the date of the notice he received. If said Ronan did not pay the printing costs, he therefore, as a matter of law, could

not perfect his appeal and exercise his statutory rights, which rights can be exercised either in person or by an attorney of record.

Conclusion.

Petitioner Herein, James F. Ronan, Cannot Claim Lack of Knowledge or Prejudice in These Cases.

The petitioner herein, James F. Ronan, was adequately warned that he himself could not be expected, under any circumstances, to carry out this appeal, as "the legal technicalities are complicated enough even for members of the Bar." In the same letter the following language appears: "Once again, Mr. Ronan, I advise you to obtain the services of a member of the Bar to handle this matter for you." At that point, upon receipt of the letter of Walter H. Gilday, Register of Plymouth County Probate Court, the petitioner had the right of all citizens in the Commonwealth of Massachusetts to engage the services of a competent member of the Massachusetts Bar. He did not do so, and is not now in a position to claim prejudice for his own failure in not hiring counsel.

1. The respondents further state that the petitioner falsely states that his imprisonment was by way of reprisal, whereas it actually was ordered by the court for his failure to support the minor children prior to their adoption by the respondents.

2. The respondents deny that any conspiracy exists between them and the state courts, and further deny that this is a criminal matter.

3. The respondents further state that there was no Federal question of law at any time decided in this case, nor

is there a Federal question of law pending at the present time.

Petitioner's petition for writ of certiorari should be dismissed.

Respectfully submitted,

DOUGLAS SMERDON,
4 Court Street,
Taunton, Massachusetts 02780.
(617) 823-0776
Attorney for the Respondents.

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Commonwealth of Massachusetts

UNITED STATES OF AMERICA

CERTIFICATE OF MARRIAGE

FROM THE RECORDS OF MARRIAGES IN THE TOWN OF PLYMOUTH,
MASSACHUSETTS, U. S. A.

GROOM		BRIDE	
Name	Clement A. Briggs	Name	Priscilla D. Ronan (Dick)
Color–White	W	Color–White	W
Residence	Duxbury, Mass.	Residence	Duxbury, Mass.
Age	49 Years	Age	41 Years
Occupation	Attorney	Occupation	Housewife
Place of Birth	Plymouth, Mass.	Place of Birth	Cambridge, Mass.
Name of Father	Elmer L. Briggs	Name of Father	Herbert L. Dick
Name of Mother	Susan B. Miner	Name of Mother	Florence M. Porteus
No. of Marriage	3rd	No. of Marriage	2nd

Place and date of Marriage Plymouth, Mass. June 25, 1962

By whom Married Rev. M. S. Desmond, Clergyman, Plymouth, Mass.

I, Andrew J. Collas depose and say, that I hold the office of Town Clerk of the Town of Plymouth, County of Plymouth, and Commonwealth of Massachusetts; that the records of Births, Marriages and Deaths required by law to be kept in said Town are in my custody, and that the above is a true copy from the records of Marriages in said Town, as certified by me.

Witness my hand and the Seal of said Town, on the 12th day of Feb. 19 74

Andrew J. Collas

Town Clerk

"Schedule A"

A. C. 1-3 Div.

Commonwealth of Massachusetts

PLYMOUTH, ss. PROBATE COURT.

At a Probate Court held at Brockton *in and for said County of Plymouth, on the* fifth *day of* December *in the year of our Lord one thousand nine hundred* and sixty.

On the libel of Priscilla Dick Ronan of Duxbury, in the County of Plymouth, praying that a divorce from the bond of matrimony between her and James F. Ronan of Duxbury, in the County of Plymouth, be decreed.

IT IS DECREED, *NISI*, that a divorce from the bond of matrimony between the said libellant and libellee be granted the said libellant for the cause of cruel and abusive treatment on the part of the said libellee

and that, upon and after the expiration of six months from the entry of this decree it shall become and be absolute unless, upon the application of any person interested within such period, the Court shall otherwise order, and it is further decreed that the libellant have the care and custody of Susan, Richard, Paul and Charles Ronan, minor children of the parties, the libellee to have the right to see and take the minor children, Susan and Richard, Sundays from 1:00 P.M. to 5:00 P.M., said libellee to have the right to see the minor children, Paul and Charles, Saturdays from 2:00 P.M. to 3:00 P.M., said libellee to pay to the libellant the sum of sixty-five (65) dollars each week for support of the libellant and the four minor children in her custody.

Judge of Probate Court.

A true copy.

Attest: Register.

"Schedule B"

A.C. 1393

Commonwealth of Massachusetts

PLYMOUTH, SS. PROBATE COURT

At a Probate Court held at Brockton *, in and for said County of Plymouth, on the* teath *day of* November *in the year of our Lord one thousand nine hundred* and sixty-four .

ON the petition of Clement A. Briggs of Duxbury in said County, and Priscilla D. Briggs his wife, praying for leave to adopt Susan Dick Ronan a child over the age of twelve years of James F. Ronan of Duxbury, in the County of Plymouth, and Priscilla D. Briggs his former wife, and for a change of said child's name:

It appearing that the mother of said child, who is one of the petitioners, has consented thereto; that said child, being over the age of twelve (12) years has also consented thereto: that the father has had due notice of said petition and has objected thereto;

and the Court being satisfied of the identity and relations of the persons, and that the petitioners are of sufficient ability to bring up said child and furnish her with suitable nurture and education, having reference to the degree and condition of her parents; and that it is fit and proper that such adoption should take place: After a hearing,

IT IS DECREED that from this day said child shall, to all legal intents and purposes, be the child of said petitioners, and that her name be changed to that of Susan Dick Briggs which she shall hereafter bear, and which shall be her legal name.

Judge of Probate Court.

A true copy.

Attest: Register.

"Schedule C"

A.C. 1393

Commonwealth of Massachusetts

PLYMOUTH, SS. PROBATE COURT

At a Probate Court held at Brockton *, in and for said County of Plymouth, on the* first *day of* December *in the year of our Lord one thousand nine hundred* sixty-four.

ON the petition of Clement A. Briggs of Duxbury in said County, and Priscilla D. Briggs his wife, praying for leave to adopt Richard James Ronan a child over the age of twelve years of James F. Ronan of Duxbury in the County of Plymouth and Priscilla D. Briggs his former wife, and for a change of said child's name:

It appearing that the mother is one of the petitioners; that the father had due notice of said petition according to the order of the Court and has objected thereto; that notice to the Division of Child Guardianship has been waived under Chapter 83 of the Acts of 1962;

~~ha~~ ~~consented thereto;~~

and the Court being satisfied of the identity and relations of the persons, and that the petitioners are of sufficient ability to bring up said child and furnish him with suitable nurture and education, having reference to the degree and condition of his parents; and that it is fit and proper that such adoption should take place: After a hearing,

IT IS DECREED that from this day said child shall, to all legal intents and purposes, be the child of said petitioners, and that his name be changed to that of Richard James Briggs which he shall hereafter bear, and which shall be his legal name.

Henry K. Sise

Judge of Probate Court.

A true copy.

Attest: John J. Daly Register.

"Schedule D"

A C 1965

Commonwealth of Massachusetts

PLYMOUTH, ss. PROBATE COURT

At a Probate Court held at Brockton *, in and for said County of Plymouth, on the* first *day of* December *in the year of our Lord one thousand nine hundred* sixty-four.

ON the petition of Clement A. Briggs of Duxbury in said County, and Priscilla D. Briggs his wife, praying for leave to adopt Paul Philip Ronan a child under the age of twelve years of James F. Ronan of Duxbury in the County of Plymouth and Priscilla D. Briggs his former wife, and for a change of said child's name:

It appearing that the mother of said child is one of the petitioners; that the father had due notice of said petition according to the order of the Court, and has objected thereto; that notice to the Division of Child Guardianship has been waived under Chapter 83 of the Acts of 1962;

~~has consented thereto;~~

and the Court being satisfied of the identity and relations of the persons, and that the petitioners are of sufficient ability to bring up said child and furnish him with suitable nurture and education, having reference to the degree and condition of his parents; and that it is fit and proper that such adoption should take place: After a hearing

IT IS DECREED that from this day said child shall, to all legal intents and purposes, be the child of said petitioners, and that his name be changed to that of Paul Philip Briggs which he shall hereafter bear, and which shall be his legal name.

Judge of Probate Court.

A true copy.

Attest: John J. Wade Register.

Sch quic f"

A.C. 1393

Commonwealth of Massachusetts

PLYMOUTH, ss. PROBATE COURT

At a Probate Court held at Brockton *, in and for said County of Plymouth, on the* first *day of* December *in the year of our Lord one thousand nine hundred* sixty-four.

ON the petition of Clement A. Briggs of Duxbury in said County, and Priscilla D. Briggs his wife, praying for leave to adopt Charles Anton Ronan a child under the age of twelve years of James F. Ronan of Duxbury in the County of Plymouth and Priscilla D. Briggs his former wife, and for a change of said child's name:

It appearing that the mother of said child is one of the petitioners; that the father has had due notice of said petition according to the order of the Court and has objected thereto; that notice to the Division of Child Guardianship has been waived under Chapter 83 of the Acts of 1962; ~~he~~ consented thereto;

and the Court being satisfied of the identity and relations of the persons, and that the petitioners are of sufficient ability to bring up said child and furnish h im with suitable nurture and education, having reference to the degree and condition of h is parents; and that it is fit and proper that such adoption should take place: After a hearing,

IT IS DECREED that from this day said child shall, to all legal intents and purposes, be the child of said petitioners, and that his name be changed to that of Charles Anton Briggs which he shall hereafter bear, and which shall be h is legal name.

Judge of Probate Court.

A True copy.

Attest: Register.

"Schedule F"

A.C. 116-3

Commonwealth of Massachusetts

PLYMOUTH, SS. PROBATE COURT

At a Probate Court held at Brockton *, in and for said County of Plymouth, on the* fifth *day of* June *in the year of our Lord one thousand nine hundred* and sixty-two.

ON the petition of Priscilla D. Ronan, of Duxbury, in said County representing that under decree dated February 27, 1961, James F. Ronan, her former husband, was ordered to pay to her the sum of seventy (70) dollars each week for the support of herself and the minor children in her custody, and that said libellee was given certain rights to see and take said children; and praying that the decree of this Court be further modified in that said libellee be ordered to make future payments for support through the Probation Officer of the Third District Court of Plymouth, and that he be prohibited from imposing any restraint upon the personal liberty of herself and said children and that his rights to visit or take said children be revoked.

~~All persons interested having had due notice of said petition~~ - Said James F. Ronan having had due notice of said petition, and no objection being made, after a hearing

~~and it appearing to the Court~~ - - -

IT IS DECREED that the decree of this Court dated December 5, 1960, and modified February 27, 1961, be, and the same hereby is, further modified in that the libellee is ordered to pay to the libellant the sum of fifty (50) dollars each week for the support of the minor children only, payments to be made through the Probation Officer of the Third District Court of Plymouth. The arrearage on the payments under the previous decrees of the Court is determined to be in excess of twelve hundred (1200) dollars and will remain at the sum of twelve hundred (1200) dollars until the guardian ad litem ascertains that the libellee's income has increased sufficiently to warrant a change in the decree of theCourt. The rights of visitation by the libellee to the children are rescinded and said children are not to be visited by the libellee without the consent of the libellant. Said libellee is not to communicate, nor telephone, nor threaten or use indecent language to the libellant or said children at any time.

Judge of Probate Court.

A True copy.

Attest: [signature] Register.

Commonwealth of Massachusetts

PLYMOUTH, ss. PROBATE COURT

At a Probate Court held at Brockton *in and for said County of Plymouth, on the* twenty-seventh *day of* February *in the year of our Lord one thousand nine hundred* and sixty-one.

ON the petition of Priscilla D. Ronan, libellant in a divorce action brought against James F. Ronan,

praying that the decree of this Court dated December 5, 1960, be modified in that the libellee be ordered to pay to her the sum of one hundred (100) dollars each week for the support of herself and the minor children in her custody.

James F. Ronan
All persons interested having had due notice of said petition and no objection being made, after a hearing

and it appearing to the Court--

IT IS DECREED that said decree dated December 5, 1960, be, and the same hereby is, modified in that the libellee is ordered to pay to the libellant the sum of seventy (70) dollars each week for the support of herself and the minor children in her custody, said libellee to have the right to see and take the minors, Susan, Richard and Paul on Sundays from 1:00 P.M. to 6:00 P.M., and to have the right to see Charles on Sundays from 12:00 to 1:00 P.M.

Acting *Judge of Probate Court.*

A true copy

Attest: John J. Daly Register.

"Schedule H"

A.C. [illegible]

Commonwealth of Massachusetts

PLYMOUTH, SS. PROBATE COURT

At a Probate Court held at Brockton *in and for said County of Plymouth, on the* twenty-second *day of* March *in the year of our Lord one thousand nine hundred* sixty-five.

ON the petition of Priscilla D. Briggs

of Duxbury in the County of Plymouth

praying that James F. Ronan

of Duxbury in the County of Plymouth

may be adjudged in contempt of said Court for his failure to obey the decree of said Court made and modified February 27, 1961, and June 5, 1962 on the fifth day of December 1960/, in proceedings for ~~separate support~~—divorce—brought by Priscilla D. Ronan against

said James F. Ronan

having had due notice of said petition, and having been brought before said Court and it appearing to the Court that said James F. Ronan now owes under said decree the sum of seventy-eight hundred twenty-eight/ (7828) dollars which he, being of sufficient ability to pay, neglects and refuses to pay.

IT IS DECREED that said James F. Ronan is guilty of contempt of Court in his said neglect and refusal, and it is ordered that he be committed to the House of Correction ~~jail~~ at Plymouth, in said County of Plymouth,—for the term of one (1) year ~~days~~, —until he shall purge himself of his said contempt by payment of the sum of seventy-eight hundred twenty-eight (7828) dollars and the costs of said commitment or until the further order of this Court or until he be otherwise discharged by due course of law, and that a mittimus issue accordingly.

7828

[illegible] Judge of Probate Court.

1 7 - A

A True copy.

Attest: [signature] Register.

[illegible]

A.C. 125

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGE OF THE PROBATE COURT IN AND FOR THE COUNTY OF PLYMOUTH:

RESPECTFULLY represents James F. Ronan

of Duxbury in the County of Plymouth

that upon the petition of Clement A. Briggs and Priscilla D. Briggs for the adoption of Susan Dick Ronan

That he is aggrieved by a decree of the Probate Court held at Brockton, in said County of Plymouth, on the tenth day of November, 1964, whereby said Court decreed "that from this day said child shall to all legal intents and purposes be the child of said petitioners and that her name be changed to that of Susan Dick Briggs which she shall hereafter bear and which shall be her legal name.

And he hereby gives notice that he claims an appeal from said decree to the Supreme Judicial Court.

Dated this thirtieth day of November, 1964.

JAMES F. RONAN

By his Attorney,

Edward H. Gleason

A True Copy.

Attest: John J. Daly Register.

"Schedule J"

Commonwealth of Massachusetts

To the Honorable the Judge of the Probate Court in and for the County of Plymouth:

RESPECTFULLY represents James F. Ronan

of Duxbury in the County of Plymouth

that upon the petition of Clement A. Briggs and Priscilla D. Briggs for the adoption of Richard James Ronan

That he is aggrieved by a decree of the Probate Court held at Brockton in said County of Plymouth, on the first day of December 1964, whereby said Court decreed "that from this day said child shall to all legal intents and purposes be the child of said petitioners and that his name be changed to that of Richard James Briggs which he shall hereafter bear and which shall be his legal name.

And he hereby gives notice that he claims an appeal from said decree to the Supreme Judicial Court.

Dated this seventh day of December, 1964.

JAMES F. RONAN

By his Attorney,

Edward A. Hanson

James F. Ronan

[redacted]

Attest: [signature] Register.

"Schedule K"

Commonwealth of Massachusetts

To the Honorable the Judge of the Probate Court in and for the County of Plymouth:

RESPECTFULLY represents James F. Ronan

of Duxbury in the County of Plymouth

that upon the petition of Clement A. Briggs and Priscilla D. Briggs for the adoption of Paul Philip Ronan

That he is aggrieved by a decree of the Probate Court held at Brockton, in said County of Plymouth, on the first day of December, 1964, whereby said Court decreed "that from this day said child shall to all legal intents and purposes be the child of said petitioners and that his name be changed to that of Paul Philip Briggs which he shall hereafter bear and which shall be his legal name.

And he hereby gives notice that he claims an appeal from said decree to the Supreme Judicial Court.

Dated this seventh day of December, 1964.

JAMES F. RONAN

By his Attorney.

Edward A. Stiman

James F. Ronan

A true copy.

Attest: John J. Daly Register.

"Schedule L"

Commonwealth of Massachusetts

To the Honorable the Judge of the Probate Court in and for the County of Plymouth:

RESPECTFULLY represents James F. Ronan

of Duxbury in the County of Plymouth

that upon the petition of Clement A. Briggs and Priscilla D. Briggs for the adoption of Charles Anton Ronan

That he is aggrieved by a decree of the Probate Court held at Brockton, in said County of Plymouth, on the first day of December, 19 64, whereby said Court decreed " that from this day said child shall to all legal intents and purposes be the child of said petitioners and that his name be changed to that of Charles Anton Briggs which he shall hereafter bear and which shall be his legal name.

And he hereby gives notice that he claim s an appeal from said decree to the Supreme Judicial Court.

Dated this seventh day of December, 19 64

JAMES F. RONAN
By his Attorney,
Edward H. Stevens

James F. Ronan

A true copy.

Attest: John J. Daly Register.

"Schedule M"

A.C. 118

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGE OF THE PROBATE COURT IN AND FOR THE COUNTY OF PLYMOUTH:

In the matter of the petition of Clement A. Briggs and Priscilla D. Briggs

of Duxbury in the County of Plymouth

for the adoption of Susan Dick Ronan

Now comes the Petitioners in the above-entitled cause and move this Honorable Court that the claim of appeal filed therein by the Respondent, James F. Ronan, be dismissed, he not having paid the printing costs.

Commonwealth of Massachusetts. PROBATE

Plymouth, ss. Superior Court

No. 29404 November 26 19 65

AFFIDAVIT OF NOTICE OF MOTION

CLEMENT A. BRIGGS, ET UX PTRS Pltf. vs. JAMES F. RONAN, Resp. Defdx

HUGH R. MARAGHY { Attorney for / In behalf of: } the above-named petitioners

make oath that on the 26th day of November A. D. 19 65, I gave notice in writing to the plaintiff's the defendant's attorney respondent in the above-entitled action that I should make a motion { Him / to } Dismiss respondent's appeal in the Motion Session of said Court, at PLYMOUTH on MONDAY the 13th day of December A. D. 19 65, at 10:00 o'clock, in the forenoon.

Such notice was given by mailing a letter, postage prepaid, containing a copy of proposed motion to or by delivering in hand a copy of said motion, to:

JAMES F. RONAN INDIAN TRAIL DUXBURY MASS.

Made and signed under the penalties of perjury. Hugh R. Maraghy Attorney for { Plaintiff / Defendant }: Petrs.

ATTACH THIS AFFIDAVIT TO THE MOTION

2M-7-66-AP

"Schedule N"

19

A true copy.

Attest: John J. Daly Register.

"Schedule N"

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGE OF THE PROBATE COURT IN AND FOR THE COUNTY OF PLYMOUTH:

In the matter of the petition of Clement A. Briggs and Priscilla D. Briggs

of Duxbury in the County of Plymouth

for the adoption of Richard James Ronan

Now comes the Petitioners in the above-entitled cause

and move this Honorable Court that the claim of appeal filed therein by the Respondent, James F. Ronan, be dismissed, he not having paid the printing costs.

19 .

A true copy.

Attest: John J. Wade Register.

"Schedule O"

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGE OF THE PROBATE COURT IN AND FOR THE COUNTY OF PLYMOUTH:

In the matter of the petition of Clement A. Briggs and Priscilla D. Briggs
of Duxbury in the County of Plymouth
for the adoption of Charles Anton Ronan

Now comes the Petitioners in the above-entitled cause

and moves this Honorable Court that the claim of appeal filed therein by the Respondent, James F. Ronan, be dismissed, he not having paid the printing costs.

19

A true copy.

Attest: Register.

"Schedule P"

A.C. 118

Commonwealth of Massachusetts

TO THE HONORABLE THE JUDGE OF THE PROBATE COURT IN AND FOR THE COUNTY OF PLYMOUTH:

In the matter of the petition of Clement A. Briggs and Priscilla D. Briggs

of Duxbury in the County of Plymouth

for the adoption of Paul Philip Ronan

Now comes the Petitioners in the above-entitled cause

and moves this Honorable Court that the claim of appeal filed therein by the Respondent, James F. Ronan, be dismissed, he not having paid the printing costs.

19 .

A true copy.

Attest: John J. Wade Register.

"Schedule Q"

"Schedule R"

Plymouth, Massachusetts
June 10, 1965

James F. Ronan
Obery Heights
Plymouth, Massachusetts

Re: Nos. 89404, 89405, 89406, 89407
Clement A. Briggs et al, Petitioners
for Adoption of Four Minors.

Dear Sir:

I have this day received from A. [illegible] Getchell & Son, Inc. of Boston the official estimate of the cost of printing the papers with respect to the four cases mentioned above. The amount it will cost you to print these papers for the Supreme Judicial Court is $202.00. A copy of Mr. Getchell's letter is attached, and you will notice how the cost may be reduced to $192.00 if certain papers are omitted.

Once again, Mr. Ronan, I advice you to obtain the services of a member of the Bar to handle this matter for you. Attorney Edward Stevens of Brockton has actually filed a withdrawal of appearance in the cases which, of course, you must [illegible] You cannot be expected under any circumstances to carry this Appeal forward yourself as the legal technicalities are complicated enough even for members of the Bar. This is so in every case of Appeal.

I am giving you this information, but you will understand once again that my duties extend no further than seeing that you get the notice of the above-mentioned filing.

Very truly yours,

Walter H. Gilday, Register

WHG:DAS

Enclosures 2

Copy to Edward H. Stevens, Esq.
232 Main Street
Brockton, Massachusetts

COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT
COUNTY OF SUFFOLK
CLERK'S OFFICE, BOSTON

JOHN E POWERS
CLERK

JOSEPH F TOOMEY
ASSISTANT CLERK

DANIEL D DONNELLY
ASSISTANT CLERK

JEAN M KENNETT
ASSISTANT CLERK

June 27, 1974

James F. Ronan
32 Crosby Street
Newton, Massachusetts

Douglas Smerdon, Esquire
4 Court Street
Taunton, Massachusetts 02780

Re: No. 64891 Law
JAMES F. RONAN
vs.
CLEMENT A. BRIGGS, ET AL

Dear Sir:

A rescript has been entered in the above entitled matter which reads as follows:

"Exceptions overruled."

Very truly yours,

John E Powers

JEP/jk

Clerk, Supreme Judicial Court

"Schedule S"